

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Joseph Witchard,) C/A No. 6:18-3301-BHH-JDA
vs.)
Plaintiff,) **ORDER AND OPINION**
Henry M. Herlong, Jr.,)
Defendant.)

This matter is before the Court for review of the Report and Recommendation of United States Magistrate Judge Jacquelyn D. Austin, made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 for the District of South Carolina. On December 19, 2018, Magistrate Judge Austin issued a Report and Recommendation (“Report”) recommending that the complaint, filed pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 397 (1971), against the Honorable Henry M. Herlong, Jr., be summarily dismissed, and that Plaintiff Joseph Witchard’s (“Plaintiff”) motion for declaratory judgment and injunctive relief be denied. (ECF No. 8.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. See *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made.

Plaintiff filed no objections and the time for doing so expired on January 7, 2019. In the absence of objections to the Magistrate Judge's Report, this Court is not required to provide an explanation for adopting the recommendation. See *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 and advisory committee's note).

Here, because no objections have been filed, the Court has reviewed the Magistrate Judge's findings and recommendations for clear error. Finding none, the Court agrees with the Magistrate Judge that the complaint is subject to summary dismissal, and that Plaintiff's motion for declaratory judgment and injunctive relief should be denied.

Accordingly, the Report and Recommendation (ECF No. 8) is adopted and incorporated herein by reference, and this action is DISMISSED without prejudice.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

January 10, 2019
Greenville, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified that any right to appeal this Order is governed by Rules 3 and 4 of the Federal Rules of Appellate Procedure.